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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,118	03/24/2004	Zachary D. Wiseman	120-001-1	3669

7590 12/14/2005
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EXAMINER

REESE, DAVID C

ART UNIT PAPER NUMBER

3677

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/807,118	Applicant(s) WISEMAN, ZACHARY D.	
	Examiner David C. Reese	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 6,7 and 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,8 and 11-14 is/are rejected.
- 7) ☒ Claim(s) 9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

[1] Claims 6-7, and 15-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely did not traverse the restriction (election) requirement in the reply filed on 10/11/2005; so therefore, the election is treated as an election without traverse.

The requirement is still deemed proper and is therefore made FINAL.

Status of Claims

[2] Claims 1-20 are pending.

Drawings

[3] New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings should exemplify more detail and better quality. Fig. 2, for example, though a general overview of the claimed invention, should still be of better quality and detail, so that paramount attributes and specifications of the claimed invention are more efficiently presented, and thus differentiated from other art. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance

Specification

[4] The abstract of the disclosure is objected to:

The length of the abstract is too long, as it should be limited to within a range of 50 to 150 words. Please read below. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

[5] The disclosure is objected to because of the following informalities:

It is unclear as to how exactly the plurality of ferromagnetic components are situated on each magnetic components once two magnetic components are separated from one another; that is, once two magnetic components are separated from one another, how many of the plurality of ferromagnetic components stay with each respective magnetic component, and what exactly is used to ensure that none of the plurality of ferromagnetic components are lost or dropped inadvertently during the separation process.

Appropriate correction is required.

[6] Claims 4 and 11 recite the limitation "the group" in the instant claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the respective" in the instant claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

[7] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[8] Claims 1-5, 8, 11-14 are rejected under 35 U.S.C. 102(e) as clearly anticipated by
Fukuda, US-2004/0126621.

The shape and appearance of Fukuda is identical in all material respects to that of the claimed design, *Hupp v. Siroflex of America Inc.*, 122 F.3d 1456, 43 USPQ2d 1887 (Fed. Cir. 1997).

As for Claim 1, Fukuda teaches of an articulated band (Fig. 5), comprising:

a plurality of magnetic components (5a,5b);

first and second opposite magnetic poles (Fig. 6) define within opposite ends of each one of said plurality of magnetic components (5a,5b) to be magnetically attracted toward and operatively connected to another one of said plurality of magnetic components (R) when a first one of said opposite magnetic poles of said any one of said plurality of magnetic components is operatively engaged with a second one of said opposite magnetic poles of said another one of said plurality of magnetic components (Fig. 6); and

surface contour means defined upon each one of said plurality of magnetic components (5a,5b) for permitting universal movement of each one of said plurality of magnetic components with respect to an adjacent one of said plurality of magnetic components (5a, 5b) operatively connected to said each one of said plurality of magnetic components (5a, 5b).

Re: Claim 2, wherein each one of said plurality of magnetic components (5a, 5b) has a spherical configuration such that said surface contour means defines point-to-point contact loci when each one of said plurality of magnetic components is magnetically attracted and connected to an adjacent one of said plurality of magnetic components (Fig. 6).

Re: Claim 3, wherein said articulated band comprises a continuous, uninterrupted, endless loop (1 in Fig. 5).

Re: Claim 4, said endless loop (1) comprises a jewelry item selected from the group comprising a necklace, a bracelet, a ring, and an earring.

Re: Claim 5, wherein each one of said plurality of magnetic components (5a, 5b) has the same diametrical extent (Figs. 5, 6).

Re: Claim 8, further comprising a plurality of ferromagnetic components (5c, 5d) magnetically attracted to said plurality of spherically configured magnetic components (5a, 5b).

Re: Claim 11, wherein each one of said magnetic components (5a, 5b) has a coating disposed upon the respective external surface portions thereof which is selected from the group comprising protective and decorative coatings ([0050]).

Re: Claim 12, wherein said coating is selected from the group comprising gold ([0050]), silver, platinum, copper, chromium, rhodium, plastics, nickel, and enamels.

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Re: Claim 13, wherein each one of said magnetic components, and each one of said ferromagnetic components, has a coating disposed upon the respective external surface portions thereof which is selected from the group comprising protective and decorative coatings ([0050]).

Re: Claim 14, wherein said coating is selected from the group comprising gold ([0050]), silver, platinum, copper, chromium, rhodium, plastics, nickel, and enamels.

Allowable Subject Matter

[9] Claims 9-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As for Claims 9-10, the prior art, incorporating other corresponding limitations as set forth above, does not teach of a plurality of ferromagnetic components that are disposed within a plurality of annular arrays defined around contact loci of adjoining magnetic components.

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Conclusion

[10] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited further to show the state of the art with respect to this particular type of jewelry item; as well as their extreme relevance to the current application as many read extensively onto the claimed invention: please see submitted notice of reference cited.

[11] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272-7082. The examiner can normally be reached on 7:30 am-6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached at (571) 272-7075. **Please also note the change in the fax phone number to (571) 273-8300 for the organization where this application or proceeding is assigned.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,
David Reese
Assistant Examiner
Art Unit 3677

DCR


ROBERT J. BANDY
PRIMARY EXAMINER